

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2007-0040

And

REQUIREMENT FOR TECHNICAL REPORTS

For

SOUTH PARK COUNTY SANITATION DISTRICT

and the

SONOMA COUNTY WATER AGENCY

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. The South Park County Sanitation District (hereinafter the Discharger or South Park CSD) owns approximately 20 miles of sanitary sewer collection system in southwest and southeast Santa Rosa. The Sonoma County Water Agency has responsibility for operating and maintaining the South Park CSD by joint action of the South Park CSD Board of Directors and the Sonoma County Board of Supervisors. The Sonoma County Water Agency sub-contracted in an Agreement with the City of Santa Rosa (City) for the City to provide operation and maintenance of the South Park CSD facilities, which include collection mains and laterals within the public rights-of-way within the South Park CSD, sewage pump stations and sewage force mains. The Agreement specifies that the City will "properly operate and maintain all District [South Park CSD] facilities". The Sonoma County Water Agency retains responsibility for managing the budget, setting rates, collecting fees, and replacing the South Park CSD facilities.
2. On October 16, 2006, the Discharger enrolled under the State Water Resources Control Board Order No. 2006-0003-DWQ Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (State Water Board Order No. 2006-0003-DWQ). This Order requires South Park CSD to develop and implement a system-specific Sewer System Management Plan designed to provide proper and efficient management, operation, and maintenance of its sanitary sewer system. The Order also requires the South Park CSD to develop and implement a spill response plan to minimize water quality impacts and potential nuisance conditions resulting from sanitary sewer overflows (SSOs).

3. The South Park CSD wastewater collection system was constructed in the 1950s and is showing signs of excessive deterioration, which include a high frequency of SSOs from main lines, manholes and backups in sewer laterals, compared to similar-sized collection systems and the rest of the City of Santa Rosa system. In addition, the Regional Water Board has documentation of the need for an increasing frequency of preventive and corrective maintenance activities within the collection system. The City of Santa Rosa has also documented deficiencies in the South Park CSD collection system such as leaking manholes, cracked and offset sewer pipes, deteriorated seals at pipe joints that contribute to infiltration and inflow to the collection system, and blockages in the main lines and laterals.
4. Operations records from 2001 through 2006 maintained by the City of Santa Rosa indicate that the South Park CSD experienced 58 SSOs and/or blockages that resulted in discharges to the ground or into residences or businesses. This performance rate equates to approximately 58 incidents per 100 miles of collection system per year, which far exceeds typical annual SSO rates of 3-7 incidents per 100 miles of collection system for other communities. Each of these incidents constituted a potential threat to water quality and public health.
5. On March 6, 2007 the Sonoma County Board of Supervisors in a public hearing adopted a Declaration of Potential Health and Environmental Hazard for the South Park CSD. The Resolution declared that 1) there is a potential public health hazard and environmental water pollution hazard in the South Park CSD resulting from the current aged condition of portions of the public sanitary sewage collection system, and 2) all phases of the South Park CSD Sanitary Sewer System Rehabilitation and Replacement Project necessary to alleviate the inordinate amount of sewage overflows and backups will be completed by July 1, 2011.
6. Surface water flow from the South Park CSD drains to Santa Rosa Creek and Colgan Creek. Santa Rosa Creek flows into Mark West Creek and ultimately to the Russian River at Mirabel Park. Colgan Creek flows into the Laguna de Santa Rosa and thence to Mark West Creek. The Water Quality Control Plan for the North Coast Region (Basin Plan) lists the beneficial uses of the Santa Rosa Creek and the Laguna de Santa Rosa as including agricultural supply (AGR); groundwater recharge (GWR); water contact recreation (REC-1); non-contact water recreation (REC-2); subsistence fishing (FISH); migration of aquatic organisms (MIGR); habitat for spawning, reproduction and/or early development of fish (SPWN); cold freshwater habitat (COLD); habitats necessary, at least in part, for survival and successful maintenance of plant or animal species established under state or federal laws as rare, threatened and endangered species (RARE); and water quality enhancement (WQE).

7. Discharges from sanitary sewers, which include SSOs to the ground surface and leaks of municipal wastewater containing toxic materials directly to the subsurface, may pollute groundwaters, threaten public health, and impair beneficial uses. The beneficial uses of groundwaters include municipal and domestic water supply (MUN); industrial process water supply (IND); agricultural water supply (AGR); and freshwater replenishment to surface waters (FRSH), among others.
8. Portions of State Water Board Order No. 2006-0003-DWQ that currently are being violated, or threaten to be violated, are as follows:

“C. PROHIBITIONS”

“1. Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.”

“2. Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code section 13050(m) is prohibited.”

“D. PROVISIONS”

“8. The Enrollee shall properly manage, operate, and maintain all parts of the sanitary sewer system owned or operated by the Enrollee and shall ensure that the system operators (including employees, contractors, or other agents) are adequately trained and possess adequate knowledge, skills, and abilities.”

“10. The discharger shall provide adequate capacity to convey base flows and peak flows, including flows related to wet weather events. Capacity shall meet or exceed the design criteria as defined in the Enrollee’s System and Evaluation and Capacity Assurance Plan for all parts of the sanitary sewer system owned or operated by the Enrollee.”

9. Portions of the Basin Plan that currently are being violated or threaten to be violated as a result of discharges of untreated wastewater are as follows:

“Section 3. WATER QUALITY OBJECTIVES”

“GENERAL OBJECTIVE

Whenever the existing quality of water is better than the water quality objectives established herein, such existing water quality shall be maintained unless otherwise provided by the provisions of the State Water Resources Control Board Resolution No. 68-16, “Statement of Policy with Respect to

Maintaining High Quality of Waters in California”, including any revisions thereto.”

“Section 4. IMPLEMENTATION PLANS”

“POINT SOURCE MEASURES”

“WASTE DISCHARGE PROHIBITIONS

...the Regional Water Board declares that point source waste discharges, except as stipulated by the Thermal Plan, the Ocean Plan, and the action plans and policies contained in the Point Source Measures section of this Water Quality Control Plan, are prohibited in the following locations in the Region:”

“North Coastal Basin”

“4 The Russian River and its tributaries during the period of May 15 through September 30 and during all other periods when the waste discharge flow is greater than one percent of the receiving stream’s flow as set forth in NPDES permits. In addition, the discharge of municipal waste during October 1 through May 14 shall be of advanced treated wastewater in accordance with effluent limitations in NPDES permits for each affected discharger, and shall meet a median coliform level of 2.2 MPN/ 100 mL.”

“6. On all other coastal streams and natural drainageways that flow directly to the ocean all new discharges will be prohibited. Existing discharges to these waters will be eliminated at the earliest practicable date.”

10. Section 13304 of the Porter-Cologne Water Quality Act permits the Regional Water Board to issue clean up and abatement orders against any person who has discharged or discharges waste into the waters of this state in violation of a prohibition issued by a regional water board or the State Water Board. Here the Discharger has discharged in violation of the Waste Discharge Prohibitions of the Basin Plan, described in Finding 9, above.
11. In addition, section 13304 allows the Regional Water Board to issue a clean up and abatement order where the discharger has caused or permitted, or threatens to cause or permit, waste to be discharged where it is, or probably will be, discharged into waters of the State and creates, or threatens to create, a condition of pollution or nuisance. Here, the discharge and threatened discharge of inadequately treated wastes could unreasonably affect water quality in that the discharge or threatened discharge is deleterious to beneficial uses of State waters, and could impair water quality to a degree which creates a threat to public health and public resources and

therefore, constitutes a condition of pollution or nuisance. These conditions threaten to continue unless the discharge or threatened discharge is permanently cleaned up and abated.

12. Water Code section 13304(e) defines “threatened” as “a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.” Section 13304(l) defines “pollution” as “an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects the waters for beneficial uses or facilities which serve these beneficial uses.” Section 13304(m) defines “nuisance” as anything which is 1) injurious to health or is indecent or offensive to the senses; 2) affects at the same time an entire community or neighborhood or any considerable number of persons; 3) occurs during, or as a result of, the treatment or disposal of wastes.
13. Section 13267(b) of the California Water Code provides that: *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports”.*

The technical reports required by this Order are necessary to gather information to determine the nature, circumstances, extent and gravity of SSOs that have occurred within the last five years, and the burden of these reports bears a reasonable relationship to the need for the reports and the benefits to be obtained. The submittal of a rehabilitation and replacement plan to address collection system deficiencies is consistent with requirements contained in State Water Board Order No. 2006-0003-DWQ to develop an operations and maintenance program for a publicly owned sanitary sewer system serving a population between 2,500 and 10,000.

14. This Cleanup and Abatement Order is an enforcement action by a regulatory agency being taken for the protection of the environment and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources

Code, section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15308 and 15321.

15. The Regional Water Board reserves its authority to take any enforcement action authorized by law. Violations of this Cleanup and Abatement Order are subject to administrative civil liabilities in accordance with Water Code sections 13268 and 13350, a time schedule order under Water Code section 13308, or referral to the Attorney General for injunctive relief or monetary remedies.
16. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The State Water Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. Such request should be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267(b) and 13304, and the State Water Board's "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304 (Resolution No. 92-49), the Discharger shall abate the above-described discharges of waste and threatened discharges of waste to surface waters and groundwaters in accordance with the following:

1. By **October 1, 2007**, the Discharger shall submit a report detailing SSOs that have occurred within the South Park CSD within the last five years. The report shall include a table listing all discharges of untreated or partially treated wastewater from the South Park CSD greater than 5 gallons, a record of providing notice of these SSOs to the appropriate agencies, the actions the responsible authority took to cleanup the SSO, and the actions taken to repair or address the cause of the SSO.
2. By **December 1, 2007**, the Discharger shall submit a report evaluating the extent to which private laterals are contributing to SSOs within the South Park CSD collection system. The report shall provide alternatives for facilitating inspection and repairs to private laterals, including consideration of a program requiring homeowners replace substandard private sewer laterals.

3. By **March 1** and **September 1** of each year for the duration of the time schedule, the South Park CSD shall provide to the Regional Water Board written updates of the status of the project and an updated projection for project completion.
4. By **May 2, 2009**, the Discharger shall submit a rehabilitation and replacement plan that identifies and prioritizes deficiencies throughout the entire collection system. The plan shall include a time schedule to implement short-term and long-term rehabilitation actions to address system deficiencies. The plan shall also include a capital improvement plan that addresses proper management and protection of the Discharger's infrastructure assets.
5. No later than **March 1, 2011**, the Discharger shall submit a report documenting completion of all phases of the South Park County Sanitation District Sanitary Sewer System Rehabilitation Project as defined in Task 3, above.
6. The above schedule was determined for investigation, and cleanup and abatement after considering 1) the degree of threat or impact of the discharge on water quality and beneficial uses; 2) the obligation to achieve timely compliance with cleanup and abatement goals and objectives that implement the Basin Plan and policies adopted by the State and Regional Water Boards; 3) the financial and technical resources available to the Discharger; and 4) minimizing the likelihood of imposing a burden on the people of the state with the expense of cleanup and abatement.
7. If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with the work schedule submitted pursuant to this Order and approved by the Executive Officer, the Discharger may request, in writing, an extension of the time as specified. The extension request shall include justification for the delay. An extension may be granted for good cause, in which case this Order will be accordingly revised in writing.

Ordered by _____

Catherine E. Kuhlman
Executive Officer

May 16, 2007